(4) (5)

IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench

MISC. APPEAL [C] NO. 130 /2006 [S.B.]

APPELLANT :- Smt. Savita Dubey wife of Narayan Dubey, aged about 35 years, R/o village and Post- Paragaon, P.S. Arang, District Raipur [C.G.].

OWNER OF THE VEHICLE

VERSUS

RESPONDENTS :- 1] Mohan Lal Yadav son of late Punaram Yadav, aged about 38 years.

2] Smt. Kunti Bai wife of Mohan Lal Yadav, aged about 35 years,

Both Resident of Avanti Vihar Colony, Vijay Nagar, Raipur, Tahsil and District Raipur [C.G.].

CLAIMANTS

3] Prem Lal Baghel son of Chaman Lal Baghel, resident of village and Post Paragaon, P.S. Arang, District Raipur [C.G.].

DRIVER OF THE VEHICLE

P.R. No. 3525/06 Presented by Shri A.K. Bandhu dated 9/12/06 Advocate

MISC. APPEAL UNDER SECTION 173 OF THE MOTOR VEHICLE ACT

XI-HC-78

(18)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक M.A.130..... **सन्** 2006

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

14.09.2006

Shri Malay Kumar Bhaduri, learned counsel for the appellant.

Heard on admission.

This appeal has been preferred by the appellant under Section 173 of the Motor Vehicle Act against the impugned award dated 26.7.2006 passed by 12th Motor Accident Claims Tribunal (F.T.C.), Raipur in C.T.No. 60/06, by which an award of Rs. 1,48,000/- has been passed in favour of the respondents.

The appellant is the owner of the vehicle involved in the accident which resulted in the death of Shiva Yadav who is son of respondents No. 1 and 2. The only ground on which this appeal has been preferred is that undisputedly at the time of accident deceased Shiva Yadav was sitting in an auto trolley which was dashed by the truck of the appellant from back as a result of which Shiva Yadav died. The vehicle was registered for carrying goods and as such the same was being used by the owner of that vehicle in breach of conditions of the policy, therefore, the accident resulted because of composite negligence of the owner of both the colliding vehicles and as such the owner, driver and the insurance company of the auto trolley were also necessary parties. However, the

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक M.A./130..... **सन् 2006**

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learned Tribunal erroneously holding that they were not a necessary party passed the award in favour of the respondents.

It is not in dispute that the auto trolley was hit from behind by the truck of the appellant. The fact to this effect has been recorded by the Tribunal that driver of the auto trolley was not negligent and the accident occurred due to rash and negligent driving by respondent No. 1 Prem Lal Baghel (respondent No. 3 herein). Therefore, in view of the finding of the learned Tribunal that the vehicle was dashed from behind by the truck of the appellant, it is not a case of composite negligence and the learned Tribunal has rightly held that the owner, driver and insurance company of the auto trolley were not necessary parties.

In the result, the appeal being without any force is hereby dismissed at the admission stage itself.

In view of the above, M.C.P.No. 1554/06 stands disposed of.

Sd/-
Dhirendra Mishra
Judge

P.T.O.